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SIPDIS

STATE FOR AF/E

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SUBJECT: Nairobi Embassy Bombing Victims Maintain Protest
At Former Embassy Site

SUMMARY

1. (U) On July 12, 14 victims of the August 7, 1998 Embassy bombing began a live-in protest at the "August 7 Memorial Park," located at the site of the former US Embassy in downtown Nairobi. Though the protestors are basically peaceful, their presence inhibits the park from being used for its original purposes - as a location for personal reflection and a site for appropriate educational, cultural and memorial events. The protestors falsely claim that a November 5, 2001 letter from a U.S. Federal judge directs the USG to pay each of the 5,000 bombing victims and their families \$270,000. The Park Trustees, an independent body, previously received assurances from the Nairobi City Council that the protestors would be evicted on September 5 but later learned that the City Council had changed its position and no longer accepts responsibility for the eviction. Moreover, the protestors appear to be heartened by recent press coverage of the mid-September meeting in which several members of Kenya's Parliament discussed the protestors' plight with Senators Hillary Clinton and Barrack Obama. They also receive moral support from several local non-governmental organizations (NGOs), such as Christians for a Just Society (CFJS), that regularly writes letters on their behalf.

----- Background -----

2.(U) Following the 1998 bombing, the U.S government established a \$42 million victims' "Humanitarian Assistance Program" fund that was liquidated in 2002. Since the bombing was a terrorist act, the U.S. assistance fund was established for moral, not legal reasons. Among the fund's projects: sixteen local hospitals were reimbursed for providing emergency care to bomb blast victims and more than 1,350 survivors obtained medical treatment and reconstructive surgery; school fees and costs were paid for 1,450 children of deceased and disabled victims; sixty buildings were rehabilitated and grants given to over 300 businesses to allow them to reopen and a comprehensive nationwide disaster preparedness program was established. The fund also allowed for the creation of the August 7 Memorial Park on the site of the bombing and supported the successful prosecution of four of the terrorists who are now serving life sentences in the United States. The fund did not provide for cash restitution to the victims since the United States was also a victim, and not the perpetrator, of the terrorist attack.

3. (U) After delivering the judgment against the four convicted terrorists on November 5, 2001, a Federal judge in Southern District Court in New York issued the victims a letter confirming that he had ordered the convicted terrorists to pay compensation to them for all medical, property, financial and emotional losses suffered by the attack. However, the judge acknowledged that his order might only be symbolic since the four were believed to be without assets and each was serving a life sentence. The only glimmer of hope was the possible discovery of previously hidden assets or if the defendants profited from the sale of the accounts of the attack. Though the judge's wording clearly does not support their view, the protestors claim that the 2001 ruling directs the U.S. Government to compensate each of the approximately 5,000 registered victims in the amount of 20 million Kenyan shillings (about \$270,000), approximately \$1.4 billion in total. The group evidently receives support from several local non-governmental organizations, such as Christians for a Just Society (CFJS), and may receive legal support from unknown U.S. sources, although none have been in direct contact with the U.S. Embassy. CFJS has written three letters to Kenyan politicians and President Kibaki, each time with cc's to the Ambassador.

----- Current Situation -----

4.(U) Strategies for resolving this matter remain vague. All efforts to reach out to the group to convince them that their claim is with Al Qaida and not the U.S. Government

have failed. This includes meetings with the former PAO, the deputy mayor of Nairobi, park Trustees, and others. On several occasions, such as during August 7 and September 11 memorial and commemoration services held at the park, the group received significant media attention, and on each occasion the embassy clarified the amount and nature of the humanitarian assistance that the United States Government had previously provided. At present, neither the United States nor Kenyan Governments have additional victim support funds available. At last month's September 11 Memorial Service the Ambassador again confirmed that the Humanitarian Assistance Program funds had been exhausted and that no additional funds would be made available.

5.(U) The 14 protestors themselves show no sign of stopping their protest which is by all accounts peaceful. In July and August they would chant, which made use of the park difficult for ceremonial events, but in the recent weeks they have simply remained seated stoically on a hill in a corner of the park. They sleep much of the day and at night under plastic sheeting. Relatives and friends pass them food and water through the park's iron gates. They use the park's restrooms for washing and cleaning. When these close in the evening they relieve themselves in corners on the park grounds, which is cleaned up by the park maintenance staff each morning. Pedestrians have complained at witnessing the protestors bathing openly on the city streets outside the park. The local press ran stories of a mid-September meeting between several MPs and Senators Clinton and Obama at which the MPs asked the senators to establish an additional fund to "compensate victims of the embassy bombing." The meeting itself, combined with the continued direct encouragement of CFJS, has clearly inspired the protestors who continue to relay that they will not depart the park until their demands are fully met.

6.(U) Following the September 21 reversal by the City Council, the Park Trustees decided on October 12 to abandon the idea of eviction and instead will close the Park next week until the issue has been resolved. As long as the protestors remain, the park has little chance of becoming economically viable, which is the Board's primary goal. The Park maintains an impressive visitors' center, with photos and displays from the August 7 attack. It serves as an education center for school trips and a poignant location for gatherings. It is also an appropriate setting for personal reflection in busy downtown Nairobi. However, the Trustees and park staff have set aside plans to make the park economically sustainable until after the protestors depart.

Comment

7.(U) The situation confronting these 14 protestors is, indeed, sad. The majority of the fourteen were injured for the sole reason that they were riding in a bus that was next to the embassy when the bombs exploded. However, what is particularly sad is that of the more than 5,000 victims these fourteen seem unable to rebuild their lives and move on. Rather than channel their frustrations against terrorism or the terrorists, their belief is that financial remuneration from the United States will relieve their physical and emotional suffering.

Bellamy